THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 1000 of 2006

DATED: 23.01.2006

Between:

Vemparala Kanaka Durgamma.

..... PETITIONER

AND

The District Collector,

Krishna at Machilipatnam & 3 others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 1000 of 2006

ORDER:

The petitioner is a resident of Mylavaram Village, Krishna District. She is aggrieved by the orders of the first respondent in Rc.E3/5352/2005, dated 20.09.2005, confirming the orders of the original authority, dated 22.01.2005, and the appellate authority, dated 08.07.2005, respondent Nos.3 and 2 respectively.

The land admeasuring Ac.2.51 cents in R.S.No.186/4 and Ac.2.51 cents in R.S.No.186/3 of Janagalapalli Village of Mylavaram Mandal was originally assigned to Nimmakuri Peda Das and Nimmakuri China Das in 1977. Necessary changes were also incorporated in the revenue records. The original assignees made an application to the third respondent alleging that the land assigned to them is in possession of the lessee, the petitioner herein, and that such transfer is in contravention of the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). They requested the third respondent to restore possession to them. The third respondent conducted an enquiry and by orders dated 22.01.2005 ordered resumption of the land from the petitioner and restoration to the original assignees. Aggrieved by the same, the petitioner preferred an appeal under Section 4-A of the Act. By an order dated 08.07.2005, the appellate authority confirmed the orders of the Mandal Revenue Officer, and the petitioner preferred a revision under Section 4-B of the Act before the first respondent, who by impugned order rejected the revision petition.

The learned Counsel for the petitioner strenuously contends that in 1993 the third respondent initiated action and issued a show cause notice. The petitioner submitted an explanation, *inter alia,* claiming the benefit under Section 3(5) of the Act. After considering the same, action was dropped. Again the third respondent initiated action and ordered resumption of the land, without even conducting enquiry and even without considering the claim of the petitioner as landless poor person. The learned Assistant Government Pleader strongly refutes these contentions.

A reading of the orders passed by the third respondent and the first respondent would show that the petitioner purchased the land assigned to the original assignees in contravention of the provisions of Section 3(1) of the Act. Further as rightly observed by the appellate authority, the second respondent herein – after receiving notice from the third respondent, the petitioner did not even submit explanation. The appellate authority, presumably, for this reason issued notice to the petitioner and the original assignees, and recorded their statements. The original assignees stated that the assigned land was leased out to the petitioner nine years ago due to ignorance, and when the assignees asked for possession of the land, the lessee refused to handover the land and hence an application was filed for restoration of possession. Section 3(1) of the Act prohibits the transfer of assigned land – be it by sale, lease, mortgage or gift – and renders the same void. The moment it is admitted by the transferee that it is assigned land, the same is rendered void. However, by reason of Section 3(5) of the Act, if the transfer of the assigned land by the assignee is in favour of landless and poor person, the same, however,

need not be resumed. The burden that he/she is a landless and poor person lies on the transferee. In this case, the petitioner admittedly did not submit any explanation before the Mandal Revenue Officer nor produced any material before the appellate authority or revisional authority in support of the contentions that she is a landless and poor person entitled for the benefit under Section 3(5) of the Act.

In that view of the matter, this Court does not find any infirmity in the order passed by respondent No.1 confirming the orders passed by respondent Nos.2 and 3. Though the Mandal Revenue Officer ordered resumption of the land and restoration of the same to the original assignees, the original assignees are not made parties.

The Writ Petition, for the above reasons, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

23.01.2006

vs